

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
CIVIL ACTION NO. 83-2864 SA

ROSE D. and ANTONIO CIPOLLONE
her husband,

KAYE LARSON COFFMAN

vs.

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LIGGETT GROUP, INC., a :
Delaware Corporation; PHILIP :
MORRIS INCORPORATED, a Virginia :
Corporation; LOEWS THEATRES, INC., :
a New York Corporation, :

Defendants.

13 TRANSCRIPT of testimony as taken by and
14 before JANE LORFING, a Certified Shorthand
15 Reporter and Notary Public of the State of New
16 Jersey, at the offices of GREENBAUM, ROWE, SMITH,
17 RAVIN, DAVIS & BERGSTEIN, Englehard Building,
18 Woodbridge, New Jersey on Thursday, June 20, 1985
19 commencing at 10:10 in the forenoon.

Exhibit G

1 A P P E A R A N C E S:

2 PORZIO, BROMBERG & NEWMAN
163 Madison Avenue
3 CN 097
4 Morristown, New Jersey 07960
5 BY: MARC Z. EDELL, ESQ.
6 For Rose D. Cipollone and Antonio Cipollone

7 GREENBAUM, ROWE, SMITH,
8 RAVIN, DAVIS & BERGSTEIN
9 Engelhard Building
P.O. Box 5600
33 Wood Avenue South
Woodbridge, New Jersey 07095
BY: ALAN S. NAAR, ESQ.
For Liggett Group, Inc.

10 SHOOK, HARDY & BACON
11 20th Floor
12 Mercantile Bank Tower
13 1101 Walnut
Kansas City, Missouri 64106
BY: STEVEN C. PARRISH, ESQ.
For PHILIP MORRIS, INC.

14 BROWN, CONNERY, KULP, WILLE,
15 PURNELL & GREENE
16 Parkade Building
17 518 Market Street
P.O. Box 1449
Camden, New Jersey 08101
BY: DENNIS P. BLAKE, ESQ.
For Philip Morris, Inc.

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1 I N D E X2 WITNESS DIRECT

3 KAYE LARSON COFFMAN

4 Mr. Edell

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1 K A Y E L A R S O N C O F F M A N ,
2 1304, Seaton Road, Townhouse 8, Durham,
3 North Carolina, sworn:

4 DIRECT EXAMINATION BY MR. EDELL:

5 Q. It's Coffman?

6 A. Yes, C-o-f-f-m-a-n.

7 Q. Is it Margaret or Mary?

8 A. Kaye.

9 Q. Do you use a middle initial?

10 A. L.

11 Q. Where do you live?

12 A. [DELETED]

13

14 Q. And you are employed by Liggett?

15 A. Yes.

16 Q. How long have you been with them?

17 A. A little over eight years.

18 Q. And what position do you hold with
19 them?

20 A. I'm Supervisor of Office Services.

21 Q. And what responsibilities do you have?

22 A. I have responsibilities over the mail room,

23 janitorial staff, office supplies, telephones,

24 repairs, copy machines, moving of furniture,

25 moving of files to storage. We recently renovated

K. L. Coffman

1 a warehouse. I was responsible for helping with
2 them and relocating people, picking out various
3 things for our new warehouse. It was converted
4 office space.

5 Q. So you came with Liggett in 1977, is
6 that right?

7 A. No, I first came with Liggett in 1974.

8 Q. Then there was a hiatus?

9 A. Yes.

10 Q. How long were you with them from 1974
11 to what year?

12 A. To 1979.

13 Q. And then what did you do?

14 A. I worked with my sister in a secretarial
15 business.

16 Q. Right. Then what happened?

17 A. Then I worked with Hotel Europa in Chapel
18 Hill, North Carolina. Then I went back to Liggett
19 & Myers.

20 Q. When was that?

21 A. Temporary, the last week in January of 1981,
22 full time January 1, 1982.

23 Q. What was your position from 1974 to
24 1979?

25 A. Secretary.

K. L. Coffman

1 Q. To whom?

2 A. Dan Provost.

3 MR. NAAR: Your answer struck me as
4 funny, the -- you said you worked temporarily
5 January 1981 and then you went back permanently
6 January 1982?

7 THE WITNESS: No, I worked temporary
8 the last week in December of 1981.

9 Q. So from 1974 to 1979 you were Dan
10 Provost's secretary?

11 A. Yes.

12 Q. January 1, 1982 you assumed what
13 position?

14 A. Senior secretary in the sales department.

15 Q. How long were you there?

16 A. Approximately nine months until I was
17 promoted.

18 Q. To what position?

19 A. To Coordinator of Office Services.

20 Q. So the latter part of 1982 you were
21 Coordinator of Office Services?

22 A. Yes.

23 Q. Who was your predecessor?

24 A. There really wasn't one.

25 Q. Was it a newly-formed position?

K. L. Coffman

1 A. Yes.

2 Q. Did anyone have the responsibilities
3 that you have as Coordinator of Office Services
4 prior to your assuming those responsibilities?

5 A. No.

6 Q. What if any responsibilities do you
7 have for maintaining the document destruction
8 program at Liggett?

9 A. I put files in storage when we run out of
10 room. When we run out of room I throw things away
11 with proper approval.

12 Q. What guidelines do you use in terms
13 of throwing things away?

14 A. I go to each department head including the
15 legal department and start with them and take each
16 department head to the files where they are marked
17 if they can be destroyed and then we throw them
18 away.

19 Q. Physically what would you do? You'd
20 go let's say for instance to the head, is there a
21 marketing department?

22 A. Yes.

23 Q. Who is the head of the marketing
24 department?

25 A. Mr. Hal Grant is Vice-President of Marketing.

K. L. Coffman

1 Q. So you'd go to Mr. Grant and say it's
2 time to destroy certain documents?

3 A. Well, first I would go to the legal
4 department.

5 Q. Why would you go to the legal
6 department?

7 A. To be sure there's no files that have to be
8 held for any reason.

9 Q. Who would you speak to in the legal
10 department?

11 A. I would probably speak with Helen Brooks to
12 begin with.

13 Q. Who is that?

14 A. She's administrative assistant to the
15 general counsel.

16 Q. Would she give you instruction as to
17 which documents should or should not be destroyed?

18 A. She would not. I would get approval from
19 our general counsel and if there were any files
20 that were in question, we would have counsel so
21 advise me.

22 Q. Is it Mrs. Coffman?

23 A. Yes.

24 Q. Mrs. Coffman, what I'm trying to find
25 out is do you do this on a periodic basis or does

K. L. Coffman

1 someone come to you and say look, we are running
2 out of room, what am I going to do with these
3 documents? How does it all work?

4 A. When someone has files to go to storage they
5 tell me that their areas is full, would I please
6 take them to storage. I take them to storage. If
7 I feel like we don't have any room, then I begin
8 with my procedure to get approval to throw things
9 away.

10 Q. So if you are tight for space, you'll
11 go to the legal department and ask them whether or
12 not these may be documents that can be destroyed
13 under the document destruction program? Is that
14 correct?

15 A. Well, we don't really have a document
16 destruction program.

17 Q. Document retention program, do you
18 have one of those?

19 A. No.

20 Q. I'm going to show you a document that
21 was marked on May 30, 1984 in a document
22 production proceeding, marked as DP-564 entitled
23 Liggett & Myers Tobacco Company Destruction of
24 Records General Offices October 1, 1952. Have you
25 ever seen that document?

K. L. Coffman

1 A. No.

2 Q. Have you ever seen any document which
3 memorializes what documents should be held for
4 what point in time?

5 A. No.

6 Q. So to your knowledge there is no
7 established document retention program at Liggett
8 today?

9 A. No.

10 Q. No, there isn't one?

11 A. No, not that I know of.

12 Q. When was the first time that you ever
13 went to the legal department and said there are
14 certain documents for which we have no room, I
15 want to find out whether or not they can be
16 discarded?

17 A. Spring of 1983.

18 Q. And what documents were those?

19 A. That I wanted to throw away?

20 Q. Yes, ma'am.

21 A. Whatever ones that each department had no
22 longer needed.

23 Q. Had somebody done something like what
24 you did in spring of 1983 prior to your taking
25 that responsibility?

K. L. Coffman

1 A. No.

2 Q. So there had been an accumulation
3 over the years of all these documents?

4 A. Yes.

5 Q. And where had all these documents
6 been maintained?

7 A. We have several different locations for
8 storage. We have an old warehouse called -- we
9 refer to it as Cooper Building. We have a large
10 room in there where we store file boxes. We have
11 another warehouse called the Flowers Building
12 where we have three different rooms that we store
13 records in. One is referred to as The Vault. One
14 we refer to as the Wooden Door. One we refer to
15 as the Roll-Up Door. In there we also store old
16 OF&F.

17 Q. What's OF&F?

18 A. Office furniture and fixtures. We also have
19 a vault in the Main Street office which is at West
20 Main and Fuller where we have a few records,
21 mostly payroll.

22 Q. How do you decide which documents to
23 store in which location?

24 A. I just put them where the people tell me to
25 put them because people have been putting files in

K. L. Coffman

1 these locations prior to when I came and they know
2 if their files go in Cooper or in the Flowers.
3 And after I have been there for two years, I know
4 where they are.

5 Q. Which files are maintained in Cooper
6 Building?

7 A. We have sales accounting files, finance
8 files, some credit files, some sales files, some
9 legal files.

10 Q. And which files are maintained in
11 Flowers Building?

12 A. Which part of Flowers?

13 Q. Tell me all of the parts of Flowers
14 and which documents are maintained in which parts.

15 A. In The Vault we have sales files, we have
16 order department files, we have leaf files. We
17 also have give-away items that we keep locked up
18 there such as T-shirts. We have the Wooden Door
19 which is mostly personnel notebooks and some sales
20 files. In the Roll-Up Door in Flowers we have
21 leaf files, manufacturing accounting files, sales
22 accounting files and some credit department files.

23 Q. You say that you have some files in
24 the Main Street office?

25 A. Mostly payroll records.

K. L. Coffman

1 Q. Are all of the legal files stored in
2 the Cooper Building?

3 A. Not all, there are very few legal files.
4 Most of those are kept within their department.

5 Q. Where is that located physically, the
6 legal department?

7 A. 300 North Duke Street, Carmichael Building,
8 second floor.

9 Q. If the files don't specifically fall
10 into any one of these particular categories, where
11 do they go?

12 A. They would fall into one of those categories.
13 They would be given to me by a department.

14 Q. Have you ever seen any documents
15 pertinent to Liggett's relationship with the
16 Council for Tobacco Research or The Tobacco
17 Institute?

18 A. No.

19 Q. Which files would they fall into?

20 A. Whichever department deals with that and I
21 don't know.

22 Q. You've never run across those type of
23 documents?

24 A. No.

25 Q. When you store them in these

1 K. L. Coffman

2 particular locations, do you go through the
3 individual's files to see which parts of those
4 files would go in which locations?

5 A. No.

6 Q. So it would depend upon where that
7 individual was employed as to where their files
8 would go, is that correct? If someone was
9 employed for instance in sales, correct, their
10 files when they go to storage would go with the
11 sales files; correct?

12 A. Right.

13 Q. And if the person was in finance,
14 then they would go with the finance files; correct?

15 A. Yes.

16 Q. Would you break the individual's
17 files down?

18 A. No.

19 Q. You would maintain the integrity of
20 the individual's files, is that correct?

21 A. I don't quite understand your question.

22 Q. Let's say for instance we'll use the
23 name John Smith. John Smith was in finance, okay.
24 We want to decide whether or not we should keep
25 Mr. Smith's records. The legal department says
 yes, we should keep Mr. Smith's records. What do

K. L. Coffman

1 you do with Mr. Smith's records?

2 A. Well, personally I don't know what's in
3 these boxes. They are marked on the end by
4 department. I don't know what's in them and I
5 just put them in the storage areas by departments.

6 Q. So each department gives you a file
7 and says Kaye, please take this file and get rid
8 of it for us.

9 A. A box.

10 Q. Or a box, please take this box and
11 get rid of it for us. So you have no idea how the
12 files get into the box?

13 A. Correct.

14 Q. You have no idea of the process in
15 terms of weeding out information?

16 A. No.

17 Q. Who would know that information?

18 A. I don't know, the secretary would be the one
19 to put them in the box, I suppose she would.

20 Q. When you go to discuss with the legal
21 department whether documents should or should not
22 be maintained, what do you discuss with them?

23 A. Just which departments we might throw away
24 and which we must keep. Nothing more specific
25 than that.

K. L. Coffman

1 Q. So you don't discuss with them the
2 contents of the files?

3 A. No.

4 Q. It's their job to look into the files
5 to decide whether or not it should or should not
6 be discarded?

7 A. I don't know that for a fact.

8 Q. But you have nothing to do with going
9 through the files themselves and deciding whether
10 they should be discarded?

11 A. No.

12 Q. No, you don't have any responsibility;
13 is that correct?

14 A. Responsibility for going go through the
15 files?

16 Q. Yes.

17 A. No.

18 Q. Did you participate in any fashion in
19 gathering materials together with respect to this
20 litigation?

21 A. I know there were some boxes sent to New
22 York. I don't know particularly for what purpose.
23 We sent a hundred and some boxes. My part in that
24 was after they were marked by the legal personnel,
25 to get them on a truck and on their way.

K. L. Coffman

1 Q. So from an administrative perspective,
2 you were involved in that? In just making the
3 arrangements --

4 A. Travel arrangements.

5 Q. But people from the legal department
6 had designated which boxes should be sent and
7 which boxes shouldn't be sent, correct?

8 A. Yes.

9 Q. Did you help in locating these
10 different boxes to show the people in the legal
11 department what existed?

12 A. I showed them where I had boxes stored,
13 opened them, storage areas, because I have keys to
14 those. And they are kept locked. They went in
15 without me and marked the boxes.

16 Q. And who did that, do you know the
17 names of the lawyers?

18 A. No, I don't. There were several.

19 Q. You don't know the names of any of
20 them?

21 A. No. Not when those 160 were sent.

22 Q. What do you mean not when those 160
23 were sent?

24 A. I don't know who those people were.

25 Q. Were these lawyers from law firms in

K. L. Coffman

1 New York?

2 A. Webster, Sheffield.

3 Q. Is there anybody else who has any
4 responsibility for these files?

5 A. No.

6 Q. You are the only one that actually
7 has responsibility for maintaining the files,
8 correct?

9 A. For putting them in storage and retrieving
10 them if anyone needs to get anything, yes.

11 Q. Do you keep an inventory of the boxes?

12 A. No.

13 Q. You keep it all up in your head?

14 A. As to where they are, yes, sir.

15 Q. As to what is stored in the
16 respective buildings, that's all up in your head?

17 A. Yes.

18 Q. Were you ever instructed not to
19 maintain any document which would reference where
20 files were stored?

21 A. Was I ever, excuse me?

22 Q. Were you ever asked not to maintain a
23 document --

24 A. No.

25 Q. Before you took over the

K. L. Coffman

1 responsibilities for maintaining these documents,
2 was there -- I'm sorry, just so there's no mix-up,
3 let me rephrase the question.

4 Before you took over responsibility
5 for maintaining these boxes, was there any written
6 document which reflected what was stored where?

7 A. No.

8 Q. So when you first took over these
9 responsibilities, you had to go through all of
10 these rooms to decide what was there and what in
11 the future should be stored there; is that correct?

12 A. Yes.

13 Q. No one gave you any orientation?

14 A. My boss showed me where the locations were
15 where the boxes were stored. I went from there.

16 Q. Who is your boss?

17 A. Jack Medley.

18 Q. What's his position?

19 A. Manager of Administrative Services and
20 Governmental Relations.

21 Q. What are his responsibilities?

22 A. He's my boss, I answer to him on all of my
23 responsibilities. He reports to the
24 vice-president. He handles a lot of bonding of
25 our warehouses, works with Alcohol, Tobacco and

K. L. Coffman

1 Firearms on I don't really know the details of
2 those types of things that he does. I know he
3 does those.

4 Q. Do you have any knowledge as to Mr.
5 Blount's files?

6 A. No.

7 Q. Did you know we were going to discuss
8 that today?

9 A. Yes.

10 Q. Did someone ask you before you came
11 here today whether you had any information
12 pertinent to those files?

13 A. Yes.

14 Q. And who was that?

15 A. Mr. Decker.

16 Q. And do you have any information with
17 respect to Mr. Bruff's files?

18 A. No.

19 Q. Did he also ask you whether or not
20 you knew anything about those?

21 A. Yes.

22 Q. Same is true with Mr. Few's files?

23 A. Yes.

24 Q. And Mr. Harrington's and Mr.
25 Provost's?

K. L. Coffman

1 A. Yes.

2 Q. He asked you whether you knew
3 anything about those files and you told him no?

4 A. Correct.

5 Q. Do you know whether or not anyone
6 else other than yourself was questioned by Mr.
7 Decker or anyone else concerning where those files
8 were?

9 A. No.

10 Q. And you don't know whether or not any
11 of those files were destroyed at any point in time?

12 A. I don't know, I handle all files. I know
13 what we have and what we don't have.

14 Q. But just so I'm clear, prior to the
15 spring of 1983, no documents to your knowledge had
16 ever been destroyed; is that correct?

17 A. That's right.

18 Q. What occurred in the spring of 1983
19 which precipitated this decision to destroy
20 documents?

21 A. I ran out of room.

22 MR. EDELL: I have no further
23 questions, thank you.

24 Q. I forgot to ask you about Zach Toms'
25 files?

K. L. Coffman

1 A. No.

2 Q. Dan Provost's files, you don't know
3 what happened to those either?

4 A. No.

5 Q. You worked for Dan Provost, right?

6 A. Yes.

7 Q. Did you destroy any of the documents
8 in Mr. Provost's file during the time period you
9 worked for him?

10 A. No.

11 Q. Did he to your knowledge?

12 A. No.

13 (Whereupon deposition adjourned.)

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C E R T I F I C A T E

I, JANE LORFING, a Certified Shorthand
Reporter and Notary Public of the State of New
Jersey, do hereby certify that prior to the
commencement of the examination the witness and/or
witnesses were sworn by me to testify the truth,
the whole truth and nothing but the truth.

9 I do further certify that the foregoing is a
10 true and accurate transcript of the testimony as
11 taken stenographically by and before me at the
12 time, place and on the date hereinbefore set forth.

13 I do further certify that I am neither of
14 counsel nor attorney for any party in this action
15 and that I am not interested in the event nor
16 outcome of this litigation.

Notary Public of the State of New Jersey
Certificate Number XI00873

23 Dated: